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09/944,313	08/30/2001	Ryan Patrick Fong	10012952-1	2187

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

TANG, KAREN C

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2451

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/944,313	Applicant(s) FONG ET AL.	
	Examiner KAREN C. TANG	Art Unit 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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- This action is responsive to the amendment and remarks file on 07/09/07.
- Claims 1-53 are presented for further examination.
- Claims 49-53 are newly entered.
- Claim 1, 8, 14, 27, 34 are amended.
- Double Patenting Rejection made on 03/07/07 is now withdrawn due to the terminal disclaimer filed on 07/09/07
- Objection for Drawing made on 03/07/07 is now withdrawn due to the amendment to drawing filed on 07/09/07

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 4/17/08 have been fully considered but they are not persuasive.

Applicant argues that the claim limitations would overcome the teaching of Paul.

However, it is the combination of Paul in view of Brown that disclosed the amended limitations (see below rejections). Therefore, Applicant's argument is not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paul et al hereinafter Paul (US 6,466,972) in view of Brown et al hereinafter Brown (US 6,401,238).

1. Referring to Claims 1, 8, 14, 27 and 34, Paul disclosed capturing deployment information from a reference data processing system to deploy on said one or more data processing systems, wherein said deployment information is stored in a memory; selecting said one or more data processing systems (refer to Col 4, Lines 9-13, Col 12, Lines 5-12, Col 13, Lines 4-7); selecting, by a user, a package of said deployment information to be deployed on said one or more data processing systems (refer to Fig 1, item 104, abstract, Col 2, Lines 52-55); intelligently deploying said one or more data processing systems upon receiving a command from the user if there is a match between attributes of said package and attributes of said one or more data processing systems, wherein the user selects the package attributes and data processing systems attributes to include and exclude for matching, wherein said intelligently deploying is based on said deployment information that was captured, and includes referencing said package of said deployment information that is stored in said memory, and alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems (refer to Col 9, Lines 15-30, and Col 10, Lines 10-67)

Although Paul disclosed the invention substantially as claimed, Paul did not explicitly disclosing that "providing a plurality of rules that determine the deployment information that are

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available to deploy on the one or more data processing systems and deployment action on the one or more data processing systems"

Brown, in analogous art, disclosing "providing a plurality of rules that determine the deployment information that are available to deploy on the one or more data processing systems and deployment action on the one or more data processing systems (refer to Col 2, Lines 5-25)"

It would have been obvious for ordinary skill in the art to combine the teaching of Paul with Brown because Brown's teaching of "providing a plurality of rules that determine the deployment information that are available to deploy on the one or more data processing systems and deployment action on the one or more data processing systems" would improve Paul's system in order to provide a cost effective system that are sensitive to the bandwidth availabilities in the network.

2. Referring to Claims 2, 9, and 15, Paul disclosed wherein said deployment information in said memory is stored on a dedicated data processing system connected to a computer network (refer to Fig 1, item 104).

3. Referring to Claims 3, 4, 10 and 16, Paul disclosed wherein capturing said deployment information includes referencing deployment information stored from a previous instance of deployment of one or more data processing systems (refer to Col 12, Lines 13-14, Col 12, Lines 55-66).

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4. Referring to Claims 6 and 12, Paul disclosed wherein said deployment information includes a hardware portion of a configuration and a remaining portion of said configuration, and said intelligently deploying can update said hardware portion of said configuration on a data processing system of said one or more data processing systems before software image deployment, without destructively modifying said remaining portion of said configuration of said one or more data processing systems (abstract, Col 11, Lines 8-14, Col 10, Lines 12-15).

5. Referring to Claims 7 and 13, Paul disclosed wherein said deployment information includes a hardware portion of a configuration and a remaining portion of said configuration, and said intelligently deploying can update said hardware portion of said configuration on a data processing system of said one or more data processing systems that has already been configured without destructively modifying said remaining portion of said configuration of said one or more data processing systems (abstract, Col 11, Lines 8-14, Col 10, Lines 12-15).

6. Referring to Claim 17, Paul disclosed wherein said program code segment to select one or more data processing systems to be included in said one or more data processing systems is executed on a data processing system coupled to a network of data processing systems (refer to Fig 1, item 104; abstract, Col 2, Lines 52-55).

7. Referring to Claim 18, Paul disclosed wherein said program code segment to select a package of said deployment information to be deployed on said one or more data processing

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systems is executed on a data processing system coupled to a network of data processing systems (refer to 0046-0051 and 0101-0103, and 0144).

8. Referring to Claim 19, Paul disclosed wherein said program code segment to intelligently deploy said one or more data processing systems upon receiving a command from a user interacts with a network of data processing systems (refer to Fig 16 and Col 10, Lines 55-63).

9. Referring to Claim 20, Paul disclosed electronically-readable memory is a non-volatile memory selected from the group of non-volatile memories consisting of: a magnetic disk drive, a magneto-optic disk drive, a floppy diskette, a compact disc, and a flash memory (refer to Col 5, Lines 25-31, and Col 6, Lines 5-15).

10. Referring to Claims 21-26, 32, 33, 39-48, Paul disclosed wherein the user selects an image capture option by selecting one of a default image capture and a customized image capture, wherein the default image capture will result in an automatic image capture of all hardware configurations and base software images in the reference data processing system and the customized image capture will result in the image capture of selected hardware configuration, base software image, or incremental capture of images in the reference data processing system (refer to Col 2, Lines 40-65).

11. Referring to Claims 28 and 35, Paul disclosed refreshing capture information or customized capture information (refer to Col 12, Lines 13-15).

12. Referring to Claims 30, 31 37, and 38, Paul disclosed wherein the capture information includes a hardware portion of a configuration and a remaining portion of said configuration, and said intelligently deploying can update said hardware portion of said configuration on said target data processing systems that has already been configured, without destructively modifying said remaining portion of said configuration of said target data processing systems (refer to abstracts, Col 11, Lines 8-14, and Col 10, Lines 12-15).

13. Referring to Claims 5, 11, 29 and 36, Paul disclosed deployment information includes information selected from the group of information consisting of: disk drive partitions, disk drive settings, disk array controller settings, PCI device settings, non-PCI device settings, firmware settings, fixed code settings, operating system information, application software package information, user settings, personalization information, or configuration information (abstracts).

14. Referring to Claims 49, 50, 51, 52, and 53, since applicant did not explicitly argue why these claims would overcome the prior art cited, therefore, these claims are rejected the same reasons as above claims.

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific

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limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/K. C. T./
Examiner, Art Unit 2451

/Larry D Donaghue/

Primary Examiner, Art Unit 2454